

Remarks:

In the July 26, 2007, Office Action, Claims 148 and 187 were objected to because of informalities. Claim 156 was objected to as being of improper dependent form for failing to further limit Claim 148. Claims 169, 179, and 214 were rejected under 35 U.S.C. Section 112, second paragraph, as being incomplete. Claims 148, 152-167, 169, 179, 187-218 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

The Examiner provisionally rejected:

1. Claims 211, 213, 215, 217, and 218 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 5 and 6 of U.S. Patent No. 7,101,079; and
2. Claims 169, 179, 187, 212, and 214 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 5 and 6 of U.S. Patent No. 7,101,079 in view of Raines et al. (U.S. Patent No. 4,394,955).

On the merits, Claims 148, 152-156, 158-160, 164-166, 169, 179, 187-193, 201-203, and 205-217 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over by Stolmeier et al. (U.S. Patent No. 6,257,763) in view of May (U.S. Patent No. 5,725,312) and Provan et al. (U.S. Patent No. 6,286,189). Claim 161-163, 167, 198-200, and 204 were rejected under 35 U.S.C. 103(a) as being unpatentable over Stolmeier et al. in view of May, Provan et al., and Hayashi et al. (U.S. Patent No. 6,074,097). Claim 157 and 194 were rejected under 35 U.S.C. 103(a) as being

unpatentable over Stolmeier et al. in view of May, Provan et al., and Herber et al. (U.S. Patent No. 5,525,363).

Response to Double Patenting Rejections

In response to the two double patenting Applicants have decided to remove this issue by filing a Terminal Disclaimer. Accordingly, accompanying this Response to Office Action is a Terminal Disclaimer in compliance with 37 CFR Section 1.321(b) to overcome both of the double patenting rejections. The conflicting patent, U.S. Patent No. 7,101,079, is assigned to Sargento Foods, Inc., the assignee of the present patent application.

Response to Claim Objections

Claims 148 and 187 have been amended to add the missing words therein. Accordingly, the objections to these claims is believed to have been removed. Applicants appreciate the Examiner bringing these issues to their attention.

Claim 156 has been deleted to remove the objection thereto, with the language of Claim 156 being incorporated into Claim 148. Accordingly, the objections to this claim has been removed as well.

Response to 112 Rejections

Applicants have amended Claims 169, 179, and 214 to eliminate the reference to fins, which was not precise since the specification referred to the referenced components as both skirt structures and fin structures and also referred to an entirely different

component as a fin. The word --skirt-- has been substituted for --fin-- in these claims.

Applicants appreciate the Examiner bringing these issues to their attention.

Applicants have amended each of Claims 148, 155, 157, 169, 187, 191-193, 198, 214, and 217 to correct antecedent basis in each of these claims. Applicants have also corrected typographical errors in Claims 169, one of which corrected a problem noted by the Examiner, and have also deleted the word --cheese-- from Claim 217. Applicants appreciate the Examiner bringing these issues to their attention.

Amendments to the Claims

Each of the independent claims in the patent application (Claims 148, 169, 179, 187, 212, and 214) has been amended to better defined it over the cited prior art. The support in the patent application for all of the amendments to the claims is found in Figs. 42-48 and the corresponding portion of the text of the specification. No new matter has been added.

Response to Double Patenting Rejections

First, Applicants believe that most of the double patenting rejections are moot in view of the extensive amendments to the claims (twelve out of the fourteen double patenting rejections are moot due to the cancellation of the claims identified therein, and the other eight are moot due to the extensive revision of the claims identified therein).

In addition, Applicants believe that most of the double patenting rejections were incorrect inasmuch as the reason the issued patents, the pending patent applications, and

the present patent application exist as separate patent applications is by virtue of the fact that restriction requirements were issued which forced Applicants to file numerous other patent applications. By virtue of the U.S. Patent and Trademark Office having issued the restriction requirement and the divisional patent applications having been filed, the Examiner is barred from issuing a double patenting rejection, since by definition a restriction requirement cannot be issued unless the inventions which are the subject of the restriction requirement are independently patentable. Accordingly, the Examiner's attention to and reconsideration of the double patenting rejections in the July 26, 2007, Office Action is respectfully requested.

Response to 103(a) Rejections

All of the rejections on the merits are believed to be moot in view of the fact that Applicants have extensively revised each of the independent claims in the patent application (Claims 148, 169, 179, 187, 212, and 214) to include the limitation that the bag is formed of a single sheet of web material. Each of the independent claims also includes the limitation that the weaknesses in the bag are located such that when the hood is torn off the fastener structure extends above the remaining portions of the bag. Further, each of the independent claims is side filling, a limitation not taught in the cited prior art. With the submission of the revised claims presented in the present Amendment C, Applicants believe that the claims now all include limitations which are not taught or suggested by the prior art, either the art cited by the Examiner in the July 26, 2007, Office

Action or any other prior art of which Applicants are aware. Thus, Applicants believe that independent Claims 148, 169, 179, 187, 212, and 214 are allowable, and respectfully request their allowance by the Examiner.

Claims 152-167 and 216 depend upon Claim 148, which as stated above is believed to be allowable, and thus these claims are also believed to be allowable. Claim 217 depends upon Claim 169, which as stated above is believed to be allowable, and thus Claim 217 is also believed to be allowable. Claim 218 depends upon Claim 179, which as stated above is believed to be allowable, and thus Claim 218 is also believed to be allowable. Similarly, newly added Claims 188-211 depend upon newly added independent Claim 187, which as stated above is believed to be allowable, and thus these claims are also believed to be allowable. Finally, newly added Claims 213 and 215 respectively depend upon newly added independent Claims 212 and 214, and thus Claims 213 and 215 are also believed to be allowable.

Applicants believe that Claims 148, 152-167, 169, 179, and 187-218 are patentable at this time. These claims remain pending following entry of this Amendment C, and are believed to be in condition for allowance at this time. As such, Applicants respectfully request entry of the present Amendment C and reconsideration of the application, with an early and favorable decision being solicited. Should the Examiner

believe that the prosecution of the application could so be expedited, the Examiner is requested to call Applicants' undersigned attorney at the number listed below.

Respectfully submitted:

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